

Town and Country Planning Act 1990 (As Amended)

s78 Planning Appeal

by

Nutfield Park Developments Limited (Ltd)

**Former Laporte Works Site, Nutfield Road,
Nutfield, Surrey RH1 4HG.**

Appeal Reference: APP/M3645/W/25/3374913

Community Infrastructure Levy Compliance Statement

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1. Background

1.1 Paragraph 56 of the National Planning Policy Framework (the Framework) and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended) set tests in respect of planning obligations. Obligations may only constitute a reason for granting planning permission if the obligation is:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

2. Policies

2.1 The development plan for Tandridge District Council is the Tandridge District Council Core Strategy (Core Strategy) adopted October 2008 and the Tandridge Local Plan Part Detailed Policies 2014 – 2029 (Local Plan) adopted July 2014.

2.2 The following policies within the Core Strategy and Local Plan are referred to in support of the case that the proposed planning obligations meet the CIL tests:

Core Strategy

Policy CSP 2: Housing Provision

Policy CSP 4: Affordable Housing

Policy CSP 8: Extra Care Housing

Policy CSP 11 Infrastructure and Services

Policy CSP 12: Managing Travel Demand

Policy CSP 13 Community, Sport and Recreation Facilities and Services

Policy CC7 Infrastructure and Implementation

Local Plan

Policy DP 5: Highways Safety & Design

Policy DP 7: General Development Policy

Policy DP18: Community Sport and Recreation Facilities

Policy DP21: Sustainable Water Management

3. Proposed Planning Obligations

- 3.1 The proposed planning obligations, included within the Section 106 Agreement (s106), cover (in summary) the following matters:

Affordable Housing – means the provision of 50% of the total number of Dwellings for use as Affordable Housing consisting of: (a) in the case of the use class C3 residential units a mix of 75% Affordable Rented/Social Rent Housing and 25% Shared Ownership or (b) in the case of the Owner electing for a proportion of the C2 Integrated Retirement Community Units to be provided as Affordable Housing such other Affordable Housing tenure as may be agreed in writing with the District Council (the exact size and mix of which is to be determined in accordance with the Deed);

Health Care Contribution - means the sum of £215,466 (Two hundred and fifteen thousand four hundred and sixty six pounds) payable as a financial contribution to be used specifically towards the provision of health care facilities within the Redhill Phoenix or Care Collaborative (Redhill) Primary Care Networks or successor bodies;

Bus Service Contribution - means the sum of Three Million Seven Hundred Thousand Pounds (£3,700,000) which shall be used by the County Council for the purposes of the provision or procuring of the Surrey Connect DDRT service or similar service that may replace it for Nutfield Green Park pursuant to the approved Bus Service Specification to serve the proposed development.

Bus Service Upfront Contribution - means the sum of Two Hundred and Ninety-Six Thousand Pounds (£296,000) which shall be used by the County Council for the purposes of supporting the establishment and first 2 years of operation of the bus service.

Travel Plan Monitoring Fee – means the sum of £6,150 to be used by the County Council for the purposes of monitoring the performance of the Travel Plan.

TRO Contribution - means the sum of £3000 for costs incurred by the County Council in securing necessary Traffic Regulation Orders for the speed limit reduction on the A25.

Open Space – means the communal areas of informal and formal open space to be provided within the proposed development with further detail to be approved pursuant to planning obligations imposed on the planning permission;

BNG Monitoring Contribution – means the sum of £7,880 to be applied by the District Council towards the District Council’s costs of monitoring provision on the required Biodiversity Net Gain on the site;

BNG Net Gain – means the creation or enhancement of biodiversity through an increase in biodiversity units relative to the baseline condition of the Site of:

- Not less than 102.08 Area Habitat Units, and
- Not less than 8.45 Hedgerow Units, and
- Not less than 4.40 Watercourse Units

Early Years Education Contribution – means the sum of £159,821 to be used by the County Council for the purpose of providing early years education either towards new facilities and/or the provision of early years education at one or more of the existing early years education establishments that are situated in the south east Surrey County areas and includes but is not limited to mainstream early years education.

Monitoring Fee (District Council) – means the sum of £15,841 payable in connection with the monitoring and administration of the S.106 agreement;

Monitoring Fee (County Council)- means the sum of £4,540 payable in connection with the monitoring and administration of the S.106 agreement;

Integrated Retirement Community – means the provision of an integrated retirement community as part of the proposed scheme comprising Use Class C2 units as well as Use Class E(e) and F2 floorspace;

Self and Custom Build - means the provision of 8 housing plots within the Site as part of the proposed scheme which form the outline part of the Application, to be constructed and disposed of in accordance with the relevant obligations contained in Schedule 8 of the S.106 agreement.

Secondary School Contribution- means the sum of £754,366 (seven hundred and fifty four thousand three hundred and sixty six pounds) to be used by the County Council for the purpose of providing secondary education either towards new facilities and/or the provision of secondary education at one or more of the existing secondary schools that are situated in the south east Surrey County areas and includes but is not limited to mainstream secondary education

Sustrans 21 Improvements- means a written scheme to be prepared by the Owner to be submitted to the County Council for approval in relation to the proposed delivery of improvements to the western section of Sustrans 21 from Cormongers Lane to Cavendish Road rail bridge being approximately 1752 metres in length.

Class E(e)/F2 Floorspace means the up to 1,500 sqm Class E(e), F2 flexible use floorspace to be provided by the Development pursuant to the Planning Permission.

4. CIL Tests

4.1 The following table explains how the above planning obligations comply with the three tests set out in Regulation 122 of the Community Infrastructure Levy Regulation 2010 (as amended) (“CIL Regulations”):

| Planning Obligation | Regulation 122 Test - Necessity | Regulation 122 Test 2 – Directly related to the proposed development | Regulation 122 Test 3 – fair and reasonable in terms of scale and kind | Regulation 121 CIL Compliance |
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| Provision of affordable housing (Schedule 4) | The provision of affordable housing is required for the proposal to comply with the provisions of Policy CSP4 of the Tandridge District Core Strategy and the NPPF paragraph 156 - 157 ('Golden Rules'). Without a planning obligation securing the provision of an adequate proportion and mix of affordable housing the proposal would fail to meet the housing needs of the district and area in general and would therefore be contrary to the provisions of paragraphs NPPF 64 to 68. | The provision of onsite affordable housing as a proportion of the housing development means the obligation is directly related to the proposed development. | The level of affordable housing accords with the Requirements of Core Strategy Policy CSP4 and the NPPF paragraph 156 - 157 (Golden Rules). The provision of affordable housing is therefore considered fair and reasonable as the proportion advocated under the development policy. | Affordable housing is excluded from the definition of infrastructure for the purposes of the CIL regulations and therefore falls outside the scope of CIL (the Planning Act 2008 Section 216(2)). |

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| <p>Health Care Contribution (Schedule 3)</p> | <p>The provision of health care is required for the proposal to comply with Policy CSP11 of the Tandridge District Core Strategy and the NPPF paragraph 35. Without a planning obligation securing the provision of health care the proposal would fail to meet the needs of future occupiers of the development and would therefore be contrary to the provisions of the local plan and the NPPF.</p> | <p>The provision for primary health care needs arising from the development means the obligation is directly related to the development proposed and justified by the NHS Surrey Heartlands ICB.</p> | <p>The level of contribution sought by the ICB would accord with the requirements of Core Strategy Policy CSP11 and the NPPF paragraph 35. The provision of health care is therefore considered fair and reasonable.</p> | <p>This is a specific contribution to deliver mitigation which has been identified both by the Applicant and by the ICB as necessary to make the development acceptable in planning terms. CIL is not an appropriate mechanism to secure this capital funding.</p> |
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| <p>Early Years Education Contribution (Schedule 3)</p> | <p>Development of the proposed site without an increase in capacity of education infrastructure would be in contravention of the NPPF. If a development were to take place without sufficient education infrastructure being in place the pressure would increase on current infrastructure. Increased pressure on educational infrastructure would not support the achievement of improved educational outcomes. Significant weight should be given to whether a proposed development makes provision for sufficient educational infrastructure when determining planning applications. Policy CC7 Infrastructure and Implementation set out that the scale and pace of development will depend on sufficient capacity being available in existing infrastructure to meet the needs of new</p> | <p>The specific education infrastructure contributions requests will relate to school(s) or settings which children from the proposed development would be likely to attend, or schools where other local pupils might be displaced due to pupils yielded from the development</p> | <p>Based on housing trajectories received from Tandridge District Council), Surrey County Council is working with local early years education settings to increase the number of pre-school places available to meet the anticipated demand from new housing, and is delivering infrastructure projects to provide increased capacity. The nursery will need to provide 2, 3 and 4 year Funded Early Education places for free, allowing access to full 15 and 30 hours in a flexible yet cohort pattern, aligned with the local community needs as forecast by the Education Authority.</p> | <p>For this development, Surrey County Council would request a contribution of £176,339 towards early years education infrastructure in the local area. The contribution will be applied to a project to create the additional early years places yielded as a result of the development; the location of which will be determined prior to commencement of the development.</p> |
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| | <p>development. Contributions from development will also be required to help deliver necessary infrastructure.</p> | | | |
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| <p>Secondary School Contribution (Schedule 3)</p> | <p>Development of the proposed site without an increase in capacity of education infrastructure would be in contravention of the NPPF. If a development were to take place without sufficient education infrastructure being in place the pressure would increase on current infrastructure. Increased pressure on educational infrastructure would not support the achievement of improved educational outcomes. Significant weight should be given to whether a proposed development makes provision for sufficient educational infrastructure when determining planning applications. Policy CC7 Infrastructure and Implementation set out that the scale and pace of development will depend on sufficient capacity being available in existing infrastructure to meet the needs of new</p> | <p>Surrey County Council considers that the new housing proposed will result in increased demand for school places. Additional educational infrastructure will be needed to accommodate children from families moving into the development. Without a contribution to mitigate this, the proposal would have an unacceptable negative effect on education in the area and jeopardise Surrey County Council's ability to fulfil its statutory duty to provide sufficient school places</p> | <p>Based on housing trajectories received from Tandridge District Council Surrey County Council is working with local secondary education settings to increase the number of places available to meet the anticipated demand from new housing and is delivering infrastructure projects to provide increased capacity</p> | <p>For this development, Surrey County Council would request a contribution of £754,366 towards secondary education infrastructure in the local area. There is latent capacity within the secondary sector at present, but the developer contribution requested for this development would be used to maintain the current secondary school provision within 5 miles of the development so that latent places can be released to accommodate demand from this development in the future.</p> |
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| | <p>development. Contributions from development will also be required to help deliver necessary infrastructure. Given the expansions that have already occurred in the primary sector, pressure on secondary places is increasing and additional education infrastructure will be necessary over the next two to five years at a number secondary school(s) in the area to cope with this growing and expected demand.</p> | | | |
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| <p>Bus Service Contributions (combined value of £4m) (Schedule 6)</p> | <p>A contribution to manage travel demand would accord with Policy CSP 12 which requires the development to deliver public transport improvements.</p> | <p>Funding for public transport services would address the needs arising from the development and means the obligation would be directly related to the development</p> | <p>The applicant has proposed a significant sum which the County Highway Authority (CHA) considers would be appropriate to put towards the Digital Demand Responsive Transport scheme and towards existing mainline bus services.</p> | <p>This is a specific contribution offered by the Applicant to deliver mitigation and make the development acceptable in sustainable terms, which has been accepted by the Highways Authority as necessary to make the development acceptable. CIL is not an appropriate mechanism to secure this funding.</p> |
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| <p>TRO Contribution (Schedule 3)</p> | <p>Speed reduction measures have been identified as a necessary mitigation measure to make the development acceptable in highways safety and sustainability terms. The TRO contribution of £3000 is required to deliver this mitigation in order to comply with the National Planning Policy Framework 2024 Paragraph 118 and the Tandridge District Council Local Plan Policy DP5 and Core Strategy CSP12.</p> | <p>The extent of the proposed TRO change covers the area of highway most impacted by the development and provides a sustainable transport route connecting the site to local amenities and education provision.</p> | <p>The measure is needed in order to mitigate against the direct impacts of the development and to provide adequate infrastructure which complies with the requirements of the NPPF 2024 paragraph 117 and the Tandridge Local Plan Policy DP5 Part A.4.</p> | <p>This is a specific contribution to deliver mitigation which has been identified both by the Applicant and by the CHA as necessary to make the development acceptable in highways planning terms. CIL is not an appropriate mechanism to secure this funding.</p> |
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| <p>Open Space (Schedule 5)</p> | <p>The provision of appropriate open space to serve the Development is necessary to comply with Core Strategy Policy CSP13 and Part 2 Detailed Policies Policy DP18 and NPPF paragraphs 98 and 103.</p> | <p>The provision of open space and play areas is only necessitated by the proposed Development and the requirement for that Development to be planning policy compliant.</p> | <p>The provision of an on-site open space reflects the scale of development proposed</p> | <p>The planning obligation is specific to the proposed Development.</p> |
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| <p>Integrated Retirement Community (Schedule 7)</p> | <p>These obligations are required in order to ensure that the proposed development meets the needs of different groups as stated in paragraph 63 of the NPPF, as well as to ensure that the proposed development complies with Core Strategy policy CSP8.</p> | <p>The provision of onsite C2 Integrated Retirement Community units as a proportion of the housing development means the obligation is directly related to the proposed development.</p> | <p>The obligations are designed to control how the proposed C2 Integrated Retirement Community floorspace is used. This is considered fair and reasonable in the circumstances of C2 floorspace being proposed as part of the development.</p> | |
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| <p>Self and Custom Builds (Schedule 8)</p> | <p>These obligations are required in order to ensure that the proposed development meets the needs of different groups as stated in paragraphs 63 and 71 of the NPPF.</p> <p>Section 2A(2) of the 2015 Self-Build and Custom Housebuilding Act requires the provision of self and custom build housing plots to meet local demand.</p> | <p>The provision of onsite self and custom build units as a proportion of the housing development means the obligation is directly related to the proposed development.</p> | <p>The obligations are designed to control how the proposed self and custom build units are delivered. This is considered fair and reasonable in the circumstances of self and custom build units being proposed as part of the development.</p> | |
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| <p>Biodiversity Net Gain (Schedule 9)</p> | <p>These obligations are required in order to ensure that the development fully complies with the requirements of Schedule 7A of the Town and Country Planning Act 1990.</p> | <p>BNG measures are proposed as part of the proposed development, making these obligations directly related to the proposals.</p> | <p>These obligations are designed to manage and control delivery of the required biodiversity net gain, and ensure that it is maintained for the requisite 30 years. This is considered fair and reasonable in light of the statutory requirement to provide BNG.</p> | |
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| <p>Travel Plan Monitoring Fee (schedule 3)</p> | <p>The provision of a Travel Plan Monitoring Fee of £6,150 is necessary in order that the Council is able to assess and monitor the successful delivery of the Travel Plan. The provision and monitoring of the Travel Plan is required in order to comply with the National Planning Policy Framework 2024 Paragraph 118 and the Tandridge District Council Local Plan Policy DP5 part A.5 and part B, and the Core Strategy CSP12.</p> | <p>The Travel Plan is required to mitigate the impacts of the development on the public highway and the provision of a Travel Plan Monitoring Fee enables the Plan to be monitored in accordance with the requirements of the NPPF and the Tandridge Local Plan</p> | <p>The calculation for the Travel Plan Monitoring Fee is based on officer time over an initial 5-year period.</p> <p>The fee is required to cover the following:</p> <ul style="list-style-type: none"> • assessment of a travel plan submitted as part of a planning application, or to discharge a relevant condition / obligation, with assessments of further iterations required as necessary until the travel plan content is agreed; • review of travel plan monitoring reports submitted periodically across a 5-year timeframe (typically upon first site use and again at the 1st, 3rd and 5th years after this, extending to the 7th and 9th years if targets haven't been met by year 5) | <p>This is a specific contribution which is a requirement for all developments of sufficient scale to meet the NPPF 2024 test necessitating a monitored Travel Plan. CIL is not an appropriate mechanism to secure this funding.</p> |
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| | | | <ul style="list-style-type: none">• review of travel information packs and survey questionnaires• meeting attendance/liaison with the applicant, agents, tenants, site users, travel plan coordinators and other stakeholders as required;• maintenance of records for auditing purposes;• pursuing cases where planning obligations are not complied with. This development is of sufficient scale The development is of sufficient scale that it would generate “significant amounts of movement”, with reference to the NPPF 2024 Paragraph 118, necessitating the contribution towards the cost of the above. | |
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| <p>Sustrans 21 Improvements (Schedule 12)</p> | <p>Enhancing Sustrans 21 (an established public cycle route) supports modal shift away from private car use, delivers active-travel mitigation, and accords with to CS CSP12 and LP DP5, which promotes sustainable travel measures. The obligations are therefore necessary.</p> | <p>The improvements relate to an existing strategic cycle corridor serving the catchment area of the proposed development. Users of the development will benefit directly from safer, upgraded pedestrian and cycling infrastructure. The improvements are therefore directly related to the proposed development'</p> | <p>The obligation is limited to a defined 1,752-metre section of existing route infrastructure for Sustrans 21 and proportionate to the development's scale and anticipated travel impacts, aligning with the Council's approach to infrastructure contributions. The obligation therefore meets the scale and kind requirement.</p> | <p>The planning obligation is specific to the proposed Development</p> |
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| <p>Class E(e) Health Floorspace & Class F2(a) Small Local Shop Obligations (Schedule 3)</p> | <p>Delivery of both Class E(e) and Class F2(a) floorspace ensures the proposed development meets the objectives of CSP 11, CSP 12, and DP18, by providing appropriate infrastructure on-site. The obligations are therefore necessary.</p> | <p>The Class E(e) and Class F2(a) floorspace is to be delivered within the site and will serve, among others, the future occupants of the proposed development and its delivery is linked to the occupation of a specified number of residential dwellings. The obligations are therefore directly related to the development.</p> | <p>The obligations require the provision of floorspace for health and small-scale retail use and restrictions ensuring the F2(a) floorspace remains within the small local shop parameters. This is proportionate and consistent with other similar obligations secured by the Council. The obligations are therefore fairly and reasonably related in scale and kind to the proposed development.</p> | <p>The planning obligation is specific to the proposed development</p> |
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